

**Probate Committee
Judicial Conference of Indiana**

June 21, 2002
Minutes

1. Members present. The following members of the committee were present: J. Scott VanDerbeck, Peter J. Nemeth, Larry E. Bradley, Wayne J. Lennington, and Chris D. Monroe, Chair.
2. Staff present. Michelle C. Goodman provided the committee with staff assistance.
3. Guest. Judge Evan Goodman of Marion Superior Court #9.
4. Approval of minutes. The committee approved the minutes from the April 5, 2002 meeting.
5. New Committee Member. Judge Monroe introduced and welcomed Com. Larry E. Bradley of Marion Superior Court – Probate Division as the newest member of the committee. Com. Bradley is taking the place vacated by William Fatout.
6. Deskbook update. Judge Monroe indicated that volunteers are needed to revise the following sections: adoptions, mental health, and monitoring estates. Com. Bradley volunteered to work on adoptions and mental health sections. Judge Monroe stated that he would like to contribute to the mental health section regarding transfers, etc. Judge Goodman also offered to work with Com. Bradley on the mental health section. Michelle provided Com. Bradley with the adoption and mental health sections on disk and was asked to provide Judge Goodman with the mental health section on disk. Judge Monroe will be drafting a memo informing the judiciary that the committee is in the process of updating the deskbook and requesting any comments or suggestions. If any comments or suggestions are received they will be passed along to the committee member assigned to the relevant section of the deskbook. Judge Goodman also mentioned that he was interested in mental health issue as they relate to criminal cases. The committee thought this was a topic for the Criminal Benchbook Committee. Also, it was suggested that minor compromise cases be addressed in the deskbook. Minor compromise cases was mentioned as a topic for the deskbook. Judge Nemeth indicated that he had some forms on this topic. Michelle was asked to contact Judge Harcourt to see if she would be interested in revising the monitoring estates section of the deskbook. Judge VanDerbeck volunteered to revise this section if Judge Harcourt was unable to do so.
7. Will searches. Judge Monroe indicated that he had discussed this issue with attorneys in his area and found out that this is not much of a problem. He also learned that some banks require a form to be completed prior to searching safe deposit boxes. Judge Lennington indicated that this is an issue because attorneys are looking for uniformity. The committee members briefly discussed how they handle this issue. Judge Nemeth indicated that this issue relates to the legislature making probate more informal. Judge Monroe said that he would raise this issue at the next Probate, Trust, and Real Property meeting of the Indiana State Bar on July 13th. The committee will address this again at the next meeting and possibly develop a recommended procedure.

8. Probate Code Study Commission. The committee determined that a specific liaison was not necessary. Judge Nemeth said he would be interested in attending as long as there was some advance notice of the meetings. Com. Bradley offered to attend in case of last minute meetings. Judge O'Connor was also suggested as member who might be interested in attending. Michelle will keep in contact with Ann Haley at Legislative Services in order to pass along meeting dates to the committee.
9. Additional Business. Judge Monroe informed the committee about his discussion with Ann O'Connor, Public Access Counselor, concerning prosecutors wanting to view CCS mental health cases. Ms. O'Connor communicated that she had discussed the question with Tom Jones with State Court Administration and they determined that the CCS is public record and would show if a person was committed, when commitment expires, and extensions, but the prosecutor could not look at the file itself. After a brief discussion by the committee, Judge Monroe proposed reviewing a memo on this issue at the September meeting in order to give guidance on this issue and to have other judges look at the information placed on CCS.

Judge VanDerbeck also raised the issue concerning orders for doctors to medicate persons who are committed and suggested something should be added to the deskbook on this issue. The committee discussed the various ways this is handled in each area and suggested asking a few more questions and making some findings of fact to remedy this problem.

Judge Monroe also presented a question from Judge Kathleen Coriden concerning whether minor compromise cases should be filed in CT cause number or under a probate cause number. Upon concluding the discussion, the committee determined that if the amount is under \$10,000 then it could be under the CT cause number, but if over \$10,000 it should be filed in guardianship number. Judge Monroe volunteered to write a memo concerning this matter.

Judge Monroe also presented a question received from Judge David Ault regarding the courts obligations with tax returns and waivers in light of the amendments to the inheritance tax statutes in SB 252. The statute as amended requires that people who want to know of the assessment notify the county assessor and the court may also designate persons to receive notice. Judge Nemeth suggested that the court did not have additional obligations in this area. The committee discussed whether the new provisions did away with the waiver of notice and determined that now there is a duty to notify the assessor if you would like notice and a waiver seems unnecessary. It was also discussed that if someone requested notice and changed his mind later, then a waiver could be necessary under these circumstances.
10. Next meeting. The next meeting will be held on September 11, 2002 in Fort Wayne at 10:00 a.m. Michelle was asked to contact Judge Cody to see if this is a good time, if not then the meeting will be 10:30 a.m. Drafts of deskbook revisions are due at the next meeting.

Respectfully Submitted,

Michelle C. Goodman